

HOUSE SUBSTITUTE TO SENATE BILL 569

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 36 of the Official Code of Georgia Annotated, relating to local government,
2 so as to change certain local government provisions with respect to newly created
3 municipalities; to revise certain provisions relating to the removal of new municipal
4 corporations from county special districts for the provision of local government services; to
5 provide for the offer of sale to certain qualified municipalities of county property used for
6 police stations, fire stations, or parks within the geographical boundaries of the qualified
7 municipality; to provide for procedures, conditions, and limitations; to change certain
8 provisions regarding the activation of public safety and judicial facility authorities; to provide
9 for additional limitations and requirements in the event a new municipality is created in a
10 county subsequent to a referendum in which bonded indebtedness is approved; to provide an
11 effective date; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
15 by adding a new Code section immediately following Code Section 36-31-11, to be
16 designated Code Section 36-31-11.1, to read as follows:

17 "36-31-11.1.

18 (a) As used in this Code section, the term:

19 (1) 'County's cost' means the original amount paid by the county for the land, buildings,
20 and improvements, plus interest at the rate of 3 percent per annum from the date the
21 county paid any such amounts to the date title to such property is transferred to the
22 qualified municipality pursuant to this Code section.

23 (2) 'Police station,' 'fire station,' or 'park' means property, including buildings and fixtures
24 located on such property, that is located within the municipality and has been used by the
25 county to provide police, fire, or park services to territory located within a qualified

1 municipality during the calendar year prior to the year the municipality is removed from
2 the special district under subsection (a) or (b) or this Code section.

3 (3) 'Qualified municipality' means any new municipality created by local Act or any
4 existing municipality for which the 24 month transition period provided for in Code
5 Section 36-31-8 has not yet expired.

6 (b) It is the intent of the legislature that the residents of a qualified municipality receive
7 full credit for taxes paid for police stations, fire stations, and parks; to assure that qualified
8 municipalities will have the facilities necessary to deliver such services; and to provide
9 certainty as to how the purchase price for such facilities will be determined. When a
10 qualified municipality is removed from a special district as provided in either Code Section
11 36-31-11 or subsection (c) of this Code section, the qualified municipality may elect to
12 purchase from the county police stations, fire stations, or parks, as provided in subsections
13 (d), (e), and (f) of this Code section.

14 (c) A municipal corporation created by local Act within a county which has a special
15 district for the provision of fire services shall continue to be part of such special fire district
16 where such local Act so provides or the governing authority of the municipality elects to
17 continue to be part of the special fire district by formal resolution, provided the governing
18 authority of the municipality delivers a copy of such resolution to the governing authority
19 of the county within ten business days after the date the resolution is adopted. Such
20 municipality may subsequently adopt a resolution stating its intent to be removed from the
21 district and the date of removal, provided the governing authority of the municipality
22 delivers a copy of such resolution to the governing authority of the county at least three
23 months prior to the date of removal.

24 (d) Within a 30 days after the governing body of a new municipal corporation is sworn in,
25 the governing authority of the county shall provide to the governing authority of the
26 qualified municipality a listing of all county properties located in the qualified
27 municipality, including without limitation all police stations, fire stations, and parks. If a
28 qualified municipality elects to purchase any police station, fire station, or park from the
29 county, the governing authority of the qualified municipality shall provide written notice
30 to the governing authority of the county specifying the properties to be purchased and the
31 date or dates the qualified municipality will assume responsibility for providing police, fire,
32 or park services consistent with the transition period provided in Code Section 36-31-8.
33 Such notice shall be provided with respect to each such property no less than two months
34 prior to the date the qualified municipality intends assume responsibility for providing
35 police, fire, or parks services using such property. The county may not convey or otherwise
36 encumber any police station, fire station, or park located in the qualified municipality from

1 the date the local chartering Act is approved by the Governor or becomes law without such
2 approval to end of the transition period provided in Code Section 36-31-8.

3 (e) If a qualified municipality elects to purchase any such property, the purchase price may
4 be determined by negotiation and agreement of the two governing authorities. In that
5 event, all of the county's right, title, and interest in such property shall be transferred to the
6 governing authority of the qualified municipality upon payment of the purchase price for
7 such property. The governing authority of the county shall transfer, execute, and deliver
8 to the governing authority of the qualified municipality such instruments as may be
9 necessary to record the transfer of such right, title, and interest.

10 (f) If a qualified municipality elects to purchase any such property, and the purchase price
11 is not determined by negotiation and agreement of the two governing authorities, then upon
12 payment by the qualified municipality of the estimated purchase price into escrow in the
13 registry of the superior court, all of the county's right, title, and interest in such property
14 shall be transferred to the governing authority of the qualified municipality. The governing
15 authority of the county shall transfer, execute, and deliver to the governing authority of the
16 qualified municipality such instruments as may be necessary to record the transfer of such
17 right, title, and interest. Upon final determination of the purchase price under
18 subsection (g) of this Code section, the qualified municipality shall pay over to the county
19 any remaining balance due or the county shall refund to the qualified municipality any
20 amount paid in excess of the finally determined purchase price.

21 (g) In the event that the county and the qualified municipality fail to reach an agreement
22 as to the purchase price for any such properties, then the following process is available to
23 the parties:

24 (1) The county or qualified municipality may file a petition in superior court of the
25 county seeking mandatory mediation. Such petition shall be assigned to a judge, pursuant
26 to Code Section 15-1-9.1 or 15-6-13, who is not a judge in the circuit in which the county
27 is located. The judge selected may also be a senior judge pursuant to Code Section
28 15-1-9.2 who resides in another circuit;

29 (2) The visiting or senior judge shall appoint a mediator within 30 days of receipt of the
30 petition. Mediation shall commence within 30 days of the appointment of a mediator.
31 The mandatory mediation process shall be completed within 60 days following the
32 appointment of the mediator. A majority of the members of the governing body of the
33 county and of the qualified municipality shall attend the initial mediation. Following the
34 initial meeting, the mediation shall proceed in the manner established at the initial
35 meeting. If there is no agreement on how the mediation should proceed, a majority of the
36 members of the governing body of the county and of the qualified municipality shall be

1 required to attend each mediation session unless another process is agreed upon. The cost
2 of alternative dispute resolution authorized by this subsection shall be shared by the
3 parties to the dispute pro rata based on each party's population according to the most
4 recent United States decennial census;

5 (3) If no agreement is reached at the conclusion of the mediation, either the county or the
6 qualified municipality may petition the superior court and seek resolution of the items
7 remaining in dispute. The visiting or senior judge shall conduct an evidentiary hearing
8 or hearings as such judge deems necessary and render a decision with regard to the
9 disputed items. The judge shall consider the following factors to determine the purchase
10 price and shall make specific findings of fact relative to the following factors:

11 (A) The appraised value of the total ad valorem real property tax digest for the area
12 within the municipality shall be determined;

13 (B) The appraised value of the total ad valorem real property tax digest for the entire
14 special district from which the qualified municipality was removed pursuant to Code
15 Section 36-31-11 or subsection (c) of this Code section shall be determined;

16 (C) The tax ratio shall be determined by dividing the appraised value for the qualified
17 municipality, as determined in subparagraph (A) of this paragraph, by the appraised
18 value for the special district, as determined in subparagraph (B) of this paragraph;

19 (D) The county cost's shall be determined separately for all fire stations, all police
20 stations, and all parks located in the qualified municipality. If a park is located partially
21 within a qualified municipality or if a police station or fire station was used by the
22 county to provide services to an area partially within the qualified municipality, then
23 a share of the county's cost shall be allocated to the qualified municipality proportionate
24 to portion of the park's acreage located within the qualified municipality or to the
25 portion of the police or fire service area located in the qualified municipality;

26 (E) The county's cost shall be determined separately for all fire stations, all police
27 stations, and all parks located in the special district from which the qualified
28 municipality was removed pursuant to Code Section 36-31-11 or subsection (c) of this
29 Code section;

30 (F) An asset ratio shall be determined separately for police stations and all fire stations
31 by dividing the county's cost for each type of property, as determined in subparagraph
32 (D) of this paragraph, by the county's cost of all properties of that type located in the
33 special district, as determined in subparagraph (E) of this paragraph; for parks, the asset
34 ratio shall be the total number of park acres located in the qualified municipality
35 divided by the total number of park acres located in the special district;

(G) The county's cost for parks, police stations, or fire stations located in the qualified municipality shall be considered to have been fully funded by the qualified municipality's residents if the tax ratio is equal to or greater than the asset ratio for each type of property, in which case the purchase price for properties of type shall be zero. The tax ratio shall be compared separately to the asset ratio for each of the three types of property to determine if each type of property has been fully funded or partially funded;

(H) The county's cost for parks, police stations, or fire stations located in the qualified municipality shall be considered to have been partially funded by the qualified municipality's residents if the tax ratio is less than the asset ratio. The percentage of the county's cost that shall be considered funded shall equal 100 times the tax ratio divided by the asset ratio for each type of property. The qualified municipality shall pay to the county as part of the purchase price the percentage of the county's cost that is under funded, which shall equal 100 percent minus the percentage funded;

(I) If the county used a police station or fire station to serve an area located outside the qualified municipality, the purchase price shall include a portion of the fair market value of the police station or fire station. That portion shall equal the acreage served outside the qualified municipality divided by the total acreage served by the police station or fire station; and

(J) Any other factors as may be relevant to determine the disputed value of the property;

(4) The qualified municipality may elect to pay the purchase price for any police station, fire station, or park amortized over a 25 year period at an interest rate equal to rate available to county on bonded indebtedness at the time of the transfer of title to the property from the county to the qualified municipality; and

(5) The judge shall be authorized to impose mediation costs and court costs against any party upon a finding of bad faith.

(h) In no event shall the purchase price for any property under this Code section be less than \$1,000.00.

(i) In the event a park is transferred by a county to a qualified municipality under this Code section, the municipality shall be authorized to impose and collect a user fee from citizens of the county that transferred the property provided such fee does not exceed the amount of such fee imposed and collected from citizens of the qualified municipality."

SECTION 1A.

Said title is further amended by striking subsections (a) and (b) of Code Section 36-75-4, relating to creation of public safety and judicial facility authorities, and inserting in their place new subsections (a) and (b) to read as follows:

"(a) There is created in and for each county and municipal corporation in this state a public body corporate and politic, to be known as the 'public safety and judicial facilities authority' of such county or municipal corporation. No authority shall transact any business or exercise any powers under this chapter until the governing body of the county or municipal corporation, as the case may be, by proper ordinance or resolution, declares that there is a need for an authority to function in the county or municipal corporation and declares that such jurisdiction is at the time of such ordinance or resolution imposing a sales tax levied for the purposes of a metropolitan area system of public transportation.

(b)(1) Any number of counties or municipal corporations or a combination of counties and municipal corporations may jointly form an authority, to be known as the 'joint public safety and judicial facilities authority' for such counties or municipal corporations or both. No authority shall transact any business or exercise any powers under this chapter until the governing authority of each county and municipal corporation involved declare, by ordinance or resolution, that there is a need for an authority to function and declare that such jurisdiction is at the time of such ordinance or resolution imposing a sales tax levied for the purposes of a metropolitan area system of public transportation and until the governing authority of each county and municipal corporation approves an agreement with the other counties or municipal corporations for the activation of an authority and such agreement is executed.

(2) Any combination of municipal corporations may jointly form an authority to be known as the 'joint public safety and judicial facilities authority' for such municipal corporations. No authority shall transact any business or exercise any powers under this chapter until the governing authority of each municipal corporation involved declares, by ordinance or resolution, that there is a need for an authority to function and declares that such jurisdiction is at the time of such ordinance or resolution located in a county imposing a sales tax levied for the purposes of a metropolitan area system of public transportation and until the governing authority of each municipal corporation approves an agreement with the other municipal corporations for the activation of an authority and such agreement is executed."

SECTION 2.

Said title is further amended in Code Section 36-82-1, relating to elections and requirements regarding bonded debt, by striking subsection (d) and inserting in its place a new subsection (d) to read as follows:

"(d)(1) Every legal advertisement of a bond election shall contain a reference that any brochures, listings, or other advertisements issued by the governing body of any county, municipality, or other political subdivision of this state or by any other person, firm, corporation, or association with the knowledge and consent of the governing body of such county, municipality, or other political subdivision of this state shall be deemed to be a statement of intention of the governing body of such county, municipality, or other political subdivision of this state concerning the use of the bond funds; and such statement of intention shall be binding on the governing body of such county, municipality, or other political subdivision of this state in the expenditure of any such bond funds or interest received from such bond funds which have been invested, unless the governing body of such county, municipality, or other political subdivision of this state uses such bond funds for the retirement of bonded indebtedness, in the manner provided for in this Code section; and such statement of intention shall be set forth in the resolution pursuant to which such bonds are issued.

(2)(A) Such statement of intention shall remain fully binding upon the governing authority of such county in the event a new municipality is created in such county subsequent to the referendum at which such indebtedness is approved and such bond funds shall be expended within the area of the new municipality in the same manner as otherwise required prior to the creation of the municipality. Bond funds and interest received from such bond funds which have been invested shall be expended in the manner in which advertised and for the purpose stated in such statement of intention.

(B) In the event that ownership of property of the county which is the subject of any bond funds under this Code section is transferred to a newly created municipality, the county shall, within 30 days of the date of conveyance of such property to such newly created municipality, pay such bond funds and interest received from such bond funds with respect to such project to such newly created municipality. The newly created municipality shall expend such received funds as well as future such bond funds with respect to such project in the manner in which advertised by the county and for the purpose stated in such statement of intention. If the statement of intention identifies a project to be undertaken but does not breakout the amount budgeted for such project, then the value of the project shall be paid by the county to the newly created municipality.

1 (C) If the county and municipality fail to reach an agreement as to the amount to be
2 paid or any related matter, either the county or the municipality may petition the
3 superior court and seek resolution of the items in dispute. Such petition shall be
4 assigned to a judge, pursuant to Code Section 15-1-9.1 or 15-6-13, who is not a judge
5 in the circuit in which the county is located. The judge selected may also be a senior
6 judge pursuant to Code Section 15-1-9.2 who resides in another circuit. The visiting
7 or senior judge shall conduct an evidentiary hearing or hearings as such judge deems
8 necessary and render a decision with regard to the disputed items.

9 (3)(A) Except as otherwise provided in subparagraph (B) of this paragraph, the ~~The~~
10 governing body of such county, municipality, or other political subdivision of this state
11 may, by a two-thirds' vote, declare any project which has been established pursuant to
12 any such statement of intention to be unnecessary.

13 (B) In the event any such project is located within the corporate limits of a newly
14 formed municipality, the governing body of a county shall not be authorized to declare
15 any project which has been established pursuant to any such statement of intention to
16 be unnecessary without a concurrent declaration of the governing body of such newly
17 formed municipality.

18 (4) In that the event a project has been determined to be unnecessary in accordance with
19 paragraph (3) of this subsection, the governing body of such county, municipality, or
20 other political subdivision of this state shall use such bond funds for the payment of all
21 or any part of the principal and interest on any bonded indebtedness of such county,
22 municipality, or other political subdivision of this state then outstanding. Surpluses from
23 the overestimated projects, including interest received on bond funds of such projects,
24 shall be used first to complete underestimated projects and all remaining funds received
25 from interest and overestimated projects shall be used for other projects or improvements
26 which the governing body of such county, municipality, or other political subdivision of
27 this state may deem necessary and which are encompassed within the language of the
28 statement of purpose in the election notice.

29 (5) Any meetings of any governing bodies at which any bond fund allocation is made
30 shall be open to the public. Such meetings shall be announced to the news media in
31 advance and shall be open to the news media."

32 SECTION 3.

33 This Act shall become effective upon its approval by the Governor or upon its becoming law
34 without such approval.

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2 All laws and parts of laws in conflict with this Act are repealed.